

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	Criminal No. 1:21-CR-007
)	
v.)	
)	(Judge Rambo)
VIRGINIA HAYDEN)	
)	

MOTION IN LIMINE

AND NOW, comes the United States Attorney's Office, through Scott R. Ford, Assistant United States Attorney, and files this Motion in Limine:

1. On February 3, 2021, the defendant was charged in this Court, by indictment, with: 14 counts of wire fraud, in violation of 18 U.S.C. §1343 (Counts 1-14) and one count of conversion of government funds, in violation of 18 U.S.C. §641 (Count 15. (Doc. 1)

2. The indictment alleges the defendant unlawfully took the Social Security Retirement benefits entitled to her husband, Thomas Hayden. (*Id.*)

3. Trial is currently scheduled for May 16, 2021. (Doc. 26)

4. Social Security payments are a governmental benefit and not an accrued property right (*Flemming v. Nestor*, 363 U.S. 603, 608, 80

S.Ct. 1367, 4 L.Ed.2d 1435 (1960); therefore, they are not marital property and Virginia Hayden had no interest in the payments by virtue of her marriage to Thomas Hayden.

5. Furthermore, future social security payments may not be transferred; therefore, Virginia Hayden cannot argue that Thomas Hayden had told her she could keep the payments. 42 U.S.C. §407.

6. While Virginia Hayden could have potentially been entitled to a wife's insurance benefit or a widow's insurance benefit under the Social Security Act, that would not have entitled her to Thomas Hayden's retirement benefit.

7. For all these reasons, Virginia Hayden had no legal right to the payments made by the Social Security Administration for the benefit of Thomas Hayden and she should be precluded from presenting any evidence or making any argument to the contrary.

8. Counsel for the defendant does not concur with this motion; therefore the Government will be filing a Brief in Support.

WHEREFORE, the Government submits this Motion in Limine
and will submit an accompanying brief.

Respectfully submitted,

JOHN C. GURGANUS
United States Attorney

Dated: April 21, 2022

/s/ Scott R. Ford
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on April 21, 2022, she served a copy of the attached

MOTION IN LIMINE

by electronic means to the defendants' attorneys at the following email address:

Addressees:

Craig Kauzlarich
cek@abomkutulakis.com

/s/ Irana L. Abrams
Irana L. Abrams
Legal Assistant